



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Patrick C. St. Germain )  
Application No. 10/682,444 ) Attorney Docket No.: SSS-106  
Filed: October 9, 2003 ) Group Art Unit: 3721  
For: APPARATUS FOR MAKING )  
INTERFOLDED PRODUCT )  
Examiner: Sameh Tawfik )

**REQUEST FOR REVIEW**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

All claims stand rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 5,088,707 to Stemmler in view of U.S. Patent No. 3,942,782 to Hermach. This rejection is not warranted for the following reasons:

1. The Examiner recognizes that newly cited U.S. Patent No. 5,088,707 to Stemmler does not disclose apparatus for interfolding sheets of material that include at least one longitudinal fold line and at least one fold, yet contends that this deficiency is remedied by the Hermach reference which shows apparatus for folding (not interfolding) newspaper pages. These two references are not combinable; one of ordinary skill would not have interfolded a newspaper. Motivation for the attempted combination of references is lacking.

2. Stemmler is directed to the production of numerically correct stacks of interfolded sheets, an event that occurs downstream from the folding rolls. One of ordinary skill would not have had any motivation to look upstream of the folding rolls when seeking to improve on Stemmler's apparatus. Hermach, of course, has nothing to do with interfolding. Hermach's apparatus is vastly different from that of Stemmler (c.f. FIG. 1 of Stemmler with FIG. 2 of

Hermach). Accordingly, the attempted combination of the teachings of Stemmler and Hermach is not justified.

3. Regarding claim 12, it is inappropriate for the Examiner to take official notice of a fact purportedly constituting the state of the art. This is a technical fact subject to the possibility of rational disagreement among reasonable individuals and may not be officially noticed, In re Eynde, 178 USPQ 470, 474 (CCPA 1974), and may not provide the totality of evidence to support a rejection, In re Ahlert, 165 USPQ 418, 421 (CCPA 1970). There is no proper evidence of record that supports the rejection of claim 12.

4. Regarding claim 13, Stemmler does not support the rejection because Stemmler does not teach the interfolding of sheets that include at least one longitudinal fold line and at least one fold, as well as a plurality of spaced-apart, transversely extending perforation lines.

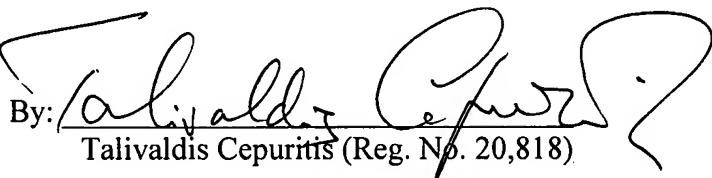
5. Regarding claims 14 and 15, dependent on claim 11, the mere fact that Stemmler discloses use of knife rolls or perforations in his apparatus does not vitiate the patentability of these particular claims, because the apparatus of Stemmler is different from that presently claimed, and the sheets to be processed are different as well.

6. The timing of the official notice, taken for the first time when issuing a Final Rejection, is improper because it deprives the applicant of full opportunity to address this issue. Applicant has requested that the Examiner provide appropriate evidence to substantiate his position that "double fold" "c" shaped fold type is old, well known, and available in the art. The Examiner has failed to do so, however,

7. The Final Rejection in this case is premature and does not comply with the provisions of Section 706.07(a), M.P.E.P. Applicant's prior amendments to the claims were clarifying in nature and did not necessitate a new rejection based on newly cited Stemmler reference and relying on a different statutory provision. Applicant's prior amendments did not materially affect the scope of the presented claims as even a cursory view of these claims will reveal.

Date: June 21, 2006

Respectfully, submitted,

By:   
Talivaldis Cepuritis (Reg. No. 20,818)

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